

EXHIBIT B

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1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF MICHIGAN

3 SOUTHERN DIVISION

4

5 JOHNATHAN L. BURKS,

6 Plaintiff,

7 -vs- Case No. 2:19-cv-10027

8 BENNY NAPOLEON, ET AL., Hon. Gershwin A. Drain

9 Defendants. Magistrate Anthony P. Patti

10 ~~~~~/

11 DEPONENT: DEPOSITION OF COMMANDER ALAN BULIFANT

12 APPEARING REMOTELY FROM WAYNE COUNTY,

13 MICHIGAN

14 DATE: Tuesday, January 12, 2021

15 TIME: 1:00 p.m.

16

17 REPORTER: John J. Slatin, RPR, CSR-5180,

18 Certified Shorthand Reporter,

19 Appearing Remotely From

20 Oakland County, Michigan

21

22 (Appearances listed on page 2)

23

24

25

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1	REMOTE APPEARANCES:	1	Tuesday, January 12, 2021	
2		2	Reported Remotely from	
3	SARAH S. PRESCOTT (P70510)	3	Oakland County, Michigan	
4	Salvatore, Prescott, Porter & Porter, PLLC	4	1:00 p.m.	
5	105 East Main Street	5	* * *	
6	Northville, Michigan 48167	6	THE REPORTER: The attorneys participating in this	
7	(248) 679-8711	7	deposition acknowledge that I am not physically present	
8	prescott@sppplaw.com	8	in the deposition room and that I will be reporting this	
9	Appearing on behalf of the Plaintiff.	9	deposition remotely. They further acknowledge that, in	
10		10	lieu of an oath administered in person, the witness will	
11	PAUL T. O'NEILL (P57293)	11	verbally declare his testimony in this matter is under	
12	(Present remotely in room with witness.)	12	penalty of perjury. The parties and their counsel	
13	Assistant Corporation Counsel	13	consent to this arrangement and waive any objections to	
14	500 Griswold, 30th Floor	14	this manner of reporting.	
15	Detroit, Michigan 48226	15	Will legal counsel please indicate your agreement	
16	(313) 224-5402	16	by stating your name, your party represented and your	
17	poneill@waynecounty.com	17	agreement on the record.	
18	Appearing on behalf of the Defendants.	18	MS. PRESCOTT: Sarah Prescott. Plaintiff agrees.	
19		19	MR. O'NEILL: Paul O'Neill, for Defendants. We	
20	ALSO PRESENT REMOTELY: Mollie Berkowitz	20	agree as well.	
21		21	THE REPORTER: Thank you.	
22		22	Will the witness please present his	
23		23	government-issued identification by holding it up to the	
24		24	camera for verification?	
25		25	THE WITNESS: (Complying.)	
		Page 3	Page 5	
1	TABLE OF CONTENTS	1	THE REPORTER: I understand you're holding up your	
2		2	Office of the Sheriff, Wayne County Sheriff's Sworn	
3	WITNESS	3	Commander I.D. It's got your name as you've stated it.	
4		4	Thank you for doing that. I appreciate it,	
5	COMMANDER ALAN BULIFANT	5	Mr. Bulifant.	
6		6	If you'll raise your right hand, I'll swear you in.	
7	Examination by Ms. Prescott	5	THE WITNESS: (Complying.)	
8		7	THE REPORTER: I just need a "yes" or a "no."	
9	Examination by Mr. O'Neill	64	9	Do you solemnly swear the testimony you're about to
10		66	10	give will be the truth, the whole truth and nothing but
11	Re-Examination by Ms. Prescott		11	the truth, so help you God?
12	EXHIBITS:	IDENTIFIED	12	THE WITNESS: Yes.
13			13	THE REPORTER: Thank you.
14	(None offered)		14	Ready when you are, Sarah.
15			15	* * *
16			16	COMMANDER ALAN BULIFANT,
17			17	having been first duly sworn, was examined and testified
18			18	as follows:
19			19	EXAMINATION
20			20	BY MS. PRESCOTT:
21	Q. Hi, Commander. My name is Sarah Prescott. I hope I		21	
22	will not forget, but if I do and call you "Sir" or		22	
23	"Mister," I apologize. I'll try to use your correct		23	
24	title.		24	
25			25	I'm going to ask you some questions. This Zoom

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<p>1 technology is – it can be a little tricky.</p> <p>2 When I do, if I step on the end of your answer or</p> <p>3 start to talk over you, I do not mean to do that. It's</p> <p>4 just maybe that I don't sense that you have more to say.</p> <p>5 Please just let me know. I'm happy to give you all</p> <p>6 the time you need to answer the questions.</p> <p>7 There may be times where you are anticipating the</p> <p>8 end of my question, and you are ready to answer. Just</p> <p>9 let me have a little pause so that our court reporter</p> <p>10 can take down the end of the question and the last words</p> <p>11 out of my mouth and then you can – you can speak.</p> <p>12 There could be a time where Mr. O'Neill has an</p> <p>13 objection. If he does so, he'll let you know whether</p> <p>14 you don't answer. Otherwise, the practice is that you</p> <p>15 do answer.</p> <p>16 So, sometimes he objects but you still answer.</p> <p>17 It's really important in this context and in every</p> <p>18 deposition that we understand each other, meaning, when</p> <p>19 I ask you a question and you answer it, we have to</p> <p>20 assume you understood and that you are answering it the</p> <p>21 best you could.</p> <p>22 So, if there is a time where you don't understand,</p> <p>23 maybe it's a word or what I'm getting at or what I'm</p> <p>24 referring to, or it was confusing as a question to you,</p> <p>25 it's important that I know that.</p>	<p>1 today.</p> <p>2 A. I've seen part of it.</p> <p>3 Q. Okay. It's two copies of the same thing.</p> <p>4 A. Okay.</p> <p>5 Q. One had some typos corrected in the last two or three</p> <p>6 paragraphs. The first half of it, the first version,</p> <p>7 the first seven pages was sent on December 18th, 2020,</p> <p>8 and then we corrected some typos yesterday just in the</p> <p>9 paragraphs 11 and 12.</p> <p>10 Can you, for the record, let us know what – if you</p> <p>11 saw the first document or the second document in this</p> <p>12 set?</p> <p>13 A. Can I refer to my notes?</p> <p>14 Q. Yeah.</p> <p>15 A. I saw the document that refers to the December 18th</p> <p>16 date.</p> <p>17 Q. Okay. And that document lists, with a number 1 through</p> <p>18 13, some areas of questioning.</p> <p>19 Is that familiar to you?</p> <p>20 A. Yes.</p> <p>21 Q. And are you the County's representative, prepared and</p> <p>22 designated to speak on 1, 2, 7, 8, and 9 of those</p> <p>23 itemized areas of questioning?</p> <p>24 A. Yes.</p> <p>25 Q. Thank you, Commander.</p>	
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<p>1 So, would – I would just ask you if you would</p> <p>2 please let me know.</p> <p>3 Is that agreeable?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Zoom forces us to be verbal and not to nod our</p> <p>6 heads or shrug when we're not sure. But there may be a</p> <p>7 time where I say – remind you you're nodding, and I say</p> <p>8 "Is that a yes?" And that's just to help us keep the</p> <p>9 record clear.</p> <p>10 If you need a break – I don't think we'll be here</p> <p>11 terribly long, but if you need a break, would you let me</p> <p>12 know that as well?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. I have a Deposition Notice that I have</p> <p>15 circulated, and I'm going to put it on the screen.</p> <p>16 Can you see that it's titled "United States</p> <p>17 District Court" at the very top?</p> <p>18 A. I only have half of it. I've got video screens on the</p> <p>19 other half.</p> <p>20 Q. Okay. So, what can happen is, I'm going to give you</p> <p>21 control over the screen so that you can move the</p> <p>22 pictures around or you can scroll down, or you can also</p> <p>23 make it smaller or larger.</p> <p>24 But my question is whether – and you can look</p> <p>25 through this document – whether you've seen it before</p>	<p>1 Can you tell us what you did to get yourself ready</p> <p>2 to answer the questions in those areas?</p> <p>3 A. After reviewing that document, I went back and I</p> <p>4 reviewed some jail policies regarding procedures and</p> <p>5 operations for that time period.</p> <p>6 Q. Okay. Is there anything else you did, anyone you spoke</p> <p>7 to, anyone you – any documents you looked at, any video</p> <p>8 you reviewed, any other steps or anything you did?</p> <p>9 And the only exclusion I'll make is speaking with</p> <p>10 Mr. O'Neill who is the counsel for the County.</p> <p>11 A. Yes, I did speak with Mr. O'Neill, and I also reviewed</p> <p>12 the internal affairs case file.</p> <p>13 Q. The case file relative to Solomon's sexual assault of</p> <p>14 Burks?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Are there other materials or documents you</p> <p>17 reviewed?</p> <p>18 A. No.</p> <p>19 Q. For example, have you seen the Complaint?</p> <p>20 A. No.</p> <p>21 Q. The lawsuit? Okay.</p> <p>22 A. No, I have not.</p> <p>23 Q. Okay. What did you bring with you here today?</p> <p>24 A. I have the document that identified I saw from the</p> <p>25 December 18th date.</p>	

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<p>1 I have – let's see. It looks like five jail 2 policies that I had printed out, and then a copy of the 3 criminal internal affairs case against Mr. Solomon.</p> <p>4 Q. Okay. And when you say "GO policies," can you tell us 5 what G and O mean? General order, or what does that 6 mean?</p> <p>7 A. I'm sorry. I don't believe I said "GO."</p> <p>8 Q. I apologize. That's what I heard. 9 You said five policies that you brought and there 10 was some sort of modifier? What was the word?</p> <p>11 A. Oh. "Jail" policies.</p> <p>12 Q. "Jail." Thank you.</p> <p>13 A. Yes.</p> <p>14 Q. Five jail policies. 15 Okay. Can you tell me what the numbers were for 16 those policies, or are?</p> <p>17 A. The first one is Document Number 14.14. It's titled 18 "Security Video Monitoring." 19 The second one is Document 14.12. It's titled 20 "Security Division II for Security Rounds." 21 The third one is Document Number 14.3. Its title 22 is "Security Inmate Lockdown Procedure." 23 The fourth one is 14.18, "Security Formal Head Card 24 Count." 25 And the last one is Document 14.1, "Security Census</p>	<p>1 one, actually happens twice a shift. 2 Q. Okay. Is there anything relevant, or is there anything 3 in 14.3 or 14.18 relative to or regarding audio/video 4 equipment?</p> <p>5 A. I'm just double-checking real quick. 6 No, there is not.</p> <p>7 Q. Okay. And what does 14.1, when it refers to census 8 count, what is the policy about generally?</p> <p>9 A. 14.1 was an original policy that 14.18 kind of 10 clarified, kind of made a little more descriptive. 11 But 14.1 talked about the head count and card count 12 and computer match of the inmates at the beginning of 13 your shift and it also said that officers would conduct 14 kind of less formal head counts at other times 15 throughout their shift to make sure that, you know, all 16 the inmates were there.</p> <p>17 Q. Okay. When you – it sounds like 14.12 and 14.14 were 18 more potentially relevant from your review in your – as 19 you looked at them. 20 What was the issue/revision date on the policy 21 14.12 that you have with you?</p> <p>22 A. November the 10th, 2015 for 14.12.</p> <p>23 Q. Okay. And how about 14.14?</p> <p>24 A. October the 2nd, 2006.</p> <p>25 Q. I was given a copy of 14.12, and it says "Revision date</p>
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<p>1 Count."</p> <p>2 Q. Thank you. 3 In that you brought them with you to the 4 deposition, is it correct that you felt that each one of 5 those policies was relevant to one of the areas that you 6 had been designated to testify?</p> <p>7 A. Not necessarily.</p> <p>8 Q. Okay. That's helpful. 9 Which ones did you think were not even – you might 10 have pulled them, you might have reviewed them, but 11 looking at them did not think that they were as relevant 12 as you at least may have thought or wanted to check?</p> <p>13 A. The number for the 14.18, "Security Formal Head Card 14 Count."</p> <p>15 Q. Okay.</p> <p>16 A. The Number 14.3, "Security Inmate Lockdown Procedure." 17 And Number 14.1, "Security Census Count."</p> <p>18 Q. Is – the Number 14.3, the "Security Inmate Lockdown 19 Procedure," what in general is the lockdown procedure 20 referring to?</p> <p>21 A. The lockdown procedure talks about how the lockdown at 22 the end of the evening at Jail Division II is conducted.</p> <p>23 Q. Okay. And the head count that the 14.18 refers to, does 24 that happen once a day or once a shift?</p> <p>25 A. No. The security formal head card count, the formal</p>	<p>1 11-12-12." 2 So, would your version be the up-to-date one if we 3 were looking at the year 2016?</p> <p>4 A. I believe so, yes.</p> <p>5 Q. Do you know if there was any further revisions to 14.12?</p> <p>6 A. No. The one that I have is the most current one that 7 I'm aware of. 8 MS. PRESCOTT: Okay. Paul, I don't think I have 9 14.14 at all, but I – in that I have the superseded one 10 of 14.12, and if we were at a dep, we would just pass it 11 across the table and move on, do you think that there's 12 an opportunity for you to fax or scan those so that we 13 can continue on? 14 I can reorganize my questions, but can you get 15 those to me?</p> <p>16 MR. O'NEILL: Sure. I can e-mail them to you if 17 you like. 18 MS. PRESCOTT: Oh, you can just hit e-mail? Okay. 19 So, let me come back to this issue, but if you 20 could hit e-mail, that would be great.</p> <p>21 MR. O'NEILL: Yeah. Can you just give me two 22 seconds to make that happen before you start another 23 question?</p> <p>24 MS. PRESCOTT: Yes. 25 (Discussion held off the record.)</p>

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1	MS. PRESCOTT: Can we go off the record for a		
2	minute?		1 A. Yes.
3	(Short recess at 1:17 p.m.)		2 Q. Is there anything you know of that the practices of
4	* * *		3 officers on 6 Old in August of 2016 were in any way
5	(Record resumed at 1:20 p.m.)		4 departing from approved custom policy or practice?
6	BY MS. PRESCOTT:		5 A. No.
7	Q. Commander, one of the things that you were to speak to		6 Q. And with regard to the maintenance of the cameras and
8	today in Number 1 is the policies written or nonwritten		7 the role of the folks who had a job of making sure that
9	in effect during August 2016 with regard to the		8 the cameras were operative, were those folks operating
10	maintenance and use of the audiovisual equipment in		9 consistent with command policy and practice and what was
11	6 Old.		10 the established expectation of Wayne County?
12	And a second category was the actual routines and		11 MR. O'NEILL: Excuse me. Object on the basis of
13	practices of those who staffed the sixth floor during		12 compound question. You're asking about policy, custom
14	August of 2016.		13 and practice. And so that's a compound question.
15	Are you familiar with the actual practices of the		14 BY MS. PRESCOTT:
16	individuals who staffed the sixth floor during August of		15 Q. I'll take an answer.
17	2016 and specifically with regard to their use and		16 A. I want to kind of like bifurcate my answer because, in
18	reliance on the video equipment?		17 my mind, there's a difference between the
19	A. Yes.		18 video-monitoring system working and the video-monitoring
20	Q. And would administration, policymakers, the people up		19 system recording.
21	the chain of command been aware of the practices of the		20 If I'm an off- -
22	officers staffing that floor through their chain of		21 Q. Do you - go ahead.
23	command in their supervisorial roles in August of 2016?		22 A. If I'm an officer and I'm sitting in my duty station and
24	A. Yes.		23 my video monitor is up, and I have images on that video
25	Q. And would you agree that the chain of command, the		24 monitor, as far as I know, as that officer is sitting
			25 there, the video-monitoring system is working because
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1	different supervisorial officers had a duty to make sure		1 I'm able to see the inmate and live monitor their
2	that the actual practices and the typical, customary,		2 activity.
3	day-to-day doing of the job of the officers on 6 Old was		3 There's no way for me to know, as an officer, if
4	appropriate according to the decision-makers' and		4 it's being recorded in a DVR room on another floor, and
5	policy-makers' directions?		5 we're not required to have cameras or even have them
6	A. Yes.		6 record. The video monitoring was a tool to aid us in
7	We have a duty to make sure that policies are		7 being able to provide more supervision for the inmates
8	followed and that people are kept safe, yes.		8 and for our staff, to make sure that our staff was safe.
9	Q. And did they - were the chain of command that were over		9 Q. Okay. I want to come back to that because something you
10	6 Old able to do that effectively in 2016?		10 said there is - I want to follow up on.
11	A. I believe so, yes.		11 But let me clarify my question again because it was
12	Q. With regard to the use of the audiovisual equipment and		12 a little bit different than what the duty officer
13	the reporting of any issues with the audio/video		13 necessarily is doing or seeing.
14	equipment, were those day-to-day activities consistent		14 So, I was trying to understand if, with regard to
15	with approved policy and customary practice of the		15 the folks who had a job to do in maintaining the
16	department?		16 equipment, making sure that it was operative, making
17	A. I'm sorry. That's kind of a broad question.		17 sure that it was reliable, those wouldn't necessarily be
18	Would you mind repeating it and maybe being a		18 the duty officers; right?
19	little bit more specific?		19 A. Correct.
20	Q. Okay. I'm speaking to in August of 2016, the officers		20 Q. So, whoever that class of people is that are more in
21	who are on the floor of 6 Old, and responsible for that		21 line with maintenance of the audiovisual system, were
22	side of the building and those prisoners that were		22 they conducting themselves according to approved policy
23	housed there, were their use and reliance on the audio		23 and practice in August of 2016?
24	and visual equipment consistent with customary policy		24 A. I don't have some of that information because, you know,
25	and practice of the department?		25 the camera system was put in and maintained by an

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<p>1 outside vendor. So, I don't know what the parameters of 2 that contract were or are. And then, you know, again, 3 the command in the building, they know the system is 4 working until it's not working, and then they make 5 notification to try and get the system back up and 6 working again.</p> <p>7 And there was a period there where it goes in and 8 out. It goes up and down. And there were problems. 9 There were issues. And that's why we would institute 10 the 30-minute round policy whenever we were aware that 11 the camera system was malfunctioning.</p> <p>12 Q. Okay. So, there's a few things in that answer, too, I 13 want to come back to and break down, but I want to focus 14 on the people that you said would be like the command – 15 either the lieutenants or the commanders, the officers 16 who would hear that there was an issue with the cameras 17 and make note, alert somebody, escalate it and then 18 maybe it might or might not go to the outside vendor.</p> <p>19 So, that group of command officers who were aware 20 there was a problem, were they doing the job according 21 to approved custom and policy of the department in the 22 year 2016, from January to August?</p> <p>23 MR. O'NEILL: Excuse me. Objection. Outside the 24 scope of the subject's designated.</p> <p>25 But the witness can answer.</p>	<p>1 and staff. And I know that's not your exact words, but 2 did I basically get what your point was?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And would you agree with me that they were a tool 5 that – the cameras, that is, and the DVR were a tool 6 that was not super reliable in August of 2016 on 6 Old?</p> <p>7 A. Well, I would like to say that I see the camera and the 8 DVR as two separate tools.</p> <p>9 Q. Okay.</p> <p>10 A. And I would say, yes, they were not very reliable.</p> <p>11 Q. Okay. And for how long had that been going on by August 12 of 2016, that the reliability had really broken down?</p> <p>13 A. I'm not sure of the exact time frame because I wasn't 14 involved with the maintenance at that time.</p> <p>15 I can tell you, as the commander now at Jail 16 Division II, it is – still we have issues from time to 17 time with it. That's why we're doing 30-minute rounds.</p> <p>18 Q. And one of the things that you've talked about is the 19 rounds and the areas that you were called on was to talk 20 about routines and practices of those who staff the 21 sixth floor regarding the use and functionality of the 22 video.</p> <p>23 That's Number 2 on the list.</p> <p>24 So, you've made the point that when the cameras 25 were down, the – an option would be to enhance security</p>
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<p>1 A. My answer is yes.</p> <p>2 BY MS. PRESCOTT:</p> <p>3 Q. Okay. Who was the outside vendor, or what was it 4 called?</p> <p>5 A. I don't know.</p> <p>6 Q. And do you know of any occasion in which the staff of 7 the sixth floor, including Ward 10, from January of '15 8 through August of '16, ever called for that vendor to 9 come in and do any service on those cameras?</p> <p>10 A. The staff would – the staff from the sixth floor would 11 never call. That would come from either shift command, 12 but more likely an IT person.</p> <p>13 Q. Okay.</p> <p>14 A. Or it may be an IT officer.</p> <p>15 Q. Are you aware of anybody in those categories of whether 16 shift command or IT ever making such a call?</p> <p>17 A. I don't have personal knowledge of it, but I know 18 Lieutenant Bates was a lieutenant there and Corporal 19 Britt Foreman was an officer there. And they've had – 20 they've been instrumental in the operation of the camera 21 system.</p> <p>22 Q. Okay. Moments ago, you testified, and I said I wanted 23 to come back to something. You said that you don't have 24 to have cameras and you don't have to have reporting; 25 that they're a tool to enhance security both for inmates</p>	<p>1 a different way, by sending people on more frequent 2 rounds; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. And, in fact, it was policy to do that; right?</p> <p>5 A. Yes.</p> <p>6 Q. And, in fact, some of the policies call for not just 7 rounds every 30 minutes but continuous rounds; right?</p> <p>8 A. On specific housing units.</p> <p>9 Q. And "continuous rounds" means just that? That you're 10 constantly walking between one and the next, or does it 11 mean something different?</p> <p>12 A. No. You're walking – you're walking, you know, 13 continuously from one to the other.</p> <p>14 Q. Okay. And so were there times that continuous rounds 15 were instituted in certain wards because of camera 16 inoperability?</p> <p>17 A. I wasn't there. I don't have personal knowledge, but 18 I'm sure that, yes, there would have been times that 19 continuous rounds were instituted.</p> <p>20 Q. How about just from January of '15 through August of 21 2016 –</p> <p>22 A. I wasn't –</p> <p>23 Q. – time frame?</p> <p>24 A. I wasn't there at that time.</p> <p>25 Q. Okay.</p>

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1	A. But I would venture to guess that, if the camera	1 MR. O'NEILL: Objection. That's outside the scope
2	systems, the monitoring, the video monitoring itself was	2 of the Deposition Notice.
3	down on the fifth and sixth floor, then continuous	3 You can answer if you know.
4	rounds would have been implemented.	4 A. Oh.
5	Q. And why do you say that? On what is that based? The	5 I know that there has been a battle throughout my
6	fact that it was policy to do that?	6 career between the sheriff's office and the County with
7	A. Yes.	7 regards to funding.
8	Q. Can you think of any date or time that that was actually	8 Now, what were the specific asks and needs of that
9	instituted in 2015 or 2016?	9 funding that the sheriff himself may have made? I don't
10	A. I wasn't there at that time. I don't have the personal	10 have personal knowledge of that, but there's been a
11	knowledge of that.	11 financial budgetary struggle my whole career between the
12	Q. Do you know whether the officers who staffed 6 Old	12 County and the sheriff's office.
13	between January of '15 and August of '16 made	13 BY MS. PRESCOTT:
14	documentation or tried to escalate issues of the cameras	14 Q. Do you have any facts today that tell you that this
15	not working or not – like freezing or the visibility	15 audiovisual equipment was not part of someone's asks
16	being poor?	16 once the old – once the new prison program had
17	A. I don't have any personal knowledge if they reported	17 sputtered out?
18	that to anyone in that time frame. I was in charge of	18 MR. O'NEILL: Same objection.
19	another area back then.	19 A. Answer?
20	Q. Do you know what anybody who does – is there anybody	20 MR. O'NEILL: Yeah.
21	who you do think has that information?	21 A. No, I don't have any knowledge of that.
22	A. Lieutenant Bates. Jason Bates was a command officer	22 BY MS. PRESCOTT:
23	there at that time. And Corporal Britton Foreman was	23 Q. Okay. Do you know either way whether – it sounds like
24	involved with the camera systems at that time.	24 you don't know what the appropriation requests were
25	So, if there had been a repair request or issue,	25 for –
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1	more than likely, they may have been involved.	1 A. No, I don't –
2	Q. What was the high-level policy stance on dealing with	2 – that the sheriff might have been making.
3	the cameras?	3 Do you know whether the sheriff commissioned
4	I mean, they were problematic. They had been for a	4 anybody to assess the state of the camera systems after
5	long time. And we did hear from Lieutenant Bates that	5 it became more and more clear that the new jail was not
6	there were – that it was sporadic and, you know, there	6 going to happen?
7	were issues.	7 A. I don't – wouldn't have personal knowledge if the
8	What was Wayne County's policy for actually	8 sheriff directed somebody to do that. If he did, I
9	correcting this problem in 2016?	9 would assume it would be, you know, IT, the people
10	A. It's not like anybody ever had a conversation with me	10 that – you know, Corporal Foreman, like I've
11	and told me, hey, this is how they feel or they view it.	11 identified.
12	I'm willing to speculate to you that, you know, we	12 Q. Okay. But you don't know of any?
13	were supposed to be in a new jail at that time, and the	13 A. I don't know.
14	construction of it was halted and stopped, and, you	14 Q. And are you aware of the basic overall policy, I think
15	know, the building was a 1920s original building from	15 starting in around 2011, not to reinvest in maintenance
16	the old side that did not have this technology. No one	16 of the old side in favor of building out the new prison?
17	had even dreamed of this type of technology. So, all of	17 A. What policy number is that?
18	these things were retrofitted in and we weren't supposed	18 Q. Well, it's not a written policy. It was the policy of
19	to be in that building any more.	19 the County but – that I think the sheriff either
20	Q. Yeah.	20 testified to or certainly was made public that they
21	I know that it had been – am I correct that the	21 weren't investing in the maintenance of the old
22	sheriff had, as a policy, been asking the County to	22 building.
23	appropriate more money during this time frame, both for	23 MR. O'NEILL: Well –
24	rounds and shifts and people to be on the floors but	24 BY MS. PRESCOTT:
25	also for maintenance?	25 Q. Are you familiar with that?

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<p>1 MR. O'NEILL: Objection. Foundation. And 2 references facts not in the record. 3 A. No, I'm not aware of that. 4 BY MS. PRESCOTT: 5 Q. Okay. What was the policy with regard to maintenance of 6 the audiovisual equipment after 2011 in the old 7 building? 8 A. You would – if the officer finds a video monitoring 9 failure, like their monitor is not working, they notify 10 shift command. Shift command will tell them to 11 implement 30-minute rounds. 12 Shift command would then notify Corporal Foreman or 13 possibly Lieutenant Bates. I don't know if he had 14 connection with the vendor or not. 15 My understanding is there are some issues that 16 Corporal Foreman is able to fix, but then there are some 17 times that he may have to contact a vendor. 18 But as far as the actual, you know, how it gets 19 fixed, that's their expertise, not mine. 20 Q. Okay. You answered a little bit more on the practical 21 side. I'm talking about the big-picture strategy, the 22 policy of the department on how to deal with the fact 23 that the system as a whole has routine failure. 24 What was the County or the Department's policy with 25 regard to how to deal with that ongoing consistent</p>	<p>1 operability and put those together perfectly? 2 A. I'm trying to think. 3 So, you're asking if rounds could be matched up to 4 determine if cameras were operating or not – 5 Q. Yeah. In a particular ward. 6 A. – I guess that would be possible. I mean, if they were 7 doing 30-minute rounds, you would have to assume that 8 they were doing the 30-minute rounds due to the camera 9 not being operative, although I'm not sure that 10 necessarily means that. 11 Q. Okay. What if they're doing – what if they're doing 12 60-minute rounds? What then? 13 A. Then the – I would take that to mean that the video 14 monitoring the duty station can monitor is operating and 15 they're getting an image that's cycling through the 16 various cameras and wards. 17 Q. Okay. And can you testify that that's the case? 18 Like if I showed you the month of April in 2016 and 19 said here is the – here is the rounds. Some of them 20 are 60 and some of them are 30. 21 Could you say positively that, okay, yes, that's 22 because those cameras were operative? 23 A. Yes. 24 Q. Okay. So, if I find rounds in – I have documentation 25 of where cameras weren't working, and if I find rounds</p>
<p>1 failure? 2 A. I don't believe there is a policy. I mean, I think 3 you're talking about a discussion between elected 4 officials that goes on, that's not shared with – you 5 know, the policy directed to me is, if equipment is 6 broken, you notify shift command. You try to get the 7 equipment fixed. You take the, you know, precautionary 8 security measures that you can in the meantime to make 9 it as safe as you possibly can. 10 Q. Fair. 11 And you're a person who is dealing with – you're 12 dealing with the practical reality that you're handed, 13 too. And so I'm just asking a level maybe above that 14 where the people are – like, you know, are we just 15 going to put Band-Aids, Band-Aids and Band-Aids, or are 16 we going to actually cure the patient? 17 And so it sounds like you don't have any 18 information about steps or plans or audits or any 19 intention to fix the underlying problem of the systemic 20 failure; is that correct? 21 A. That's correct. I don't have any knowledge of that. 22 Q. Okay. And could you testify to a given month, you know, 23 that each set of rounds necessarily lines up with this 24 camera failing here or that camera failing here so that 25 we could look at rounds as a way of figuring out camera</p>	<p>1 that are more than 30 minutes, what is happening in 2 those scenarios? 3 So, like, I'll give you an example. 4 In maximum security, on 607 and 608, the cameras 5 frequently weren't operative and sometimes the rounds 6 were more than 30 minutes. 7 So, what's happening there? 8 A. You're asking me to speculate on a great deal – number 9 of things without knowing all of the facts. 10 There is a lot of things that could be happening 11 there. There could be an emergency somewhere else in 12 the building that officers are responding to. There 13 could be that they didn't know the camera system wasn't 14 operating. It could be that the officer failed, but I 15 don't know the particulars of why that happened without 16 having all the facts. 17 Q. Could it be that the – could there be times where the 18 camera was fine at the beginning of the shift; shift 19 command gives their daily orders; and like, you know, 20 the thing doesn't work for half an hour, and it comes 21 back on then, and so they just maintain their normal 22 hour shifts? 23 A. What that officer is supposed to do is, if I'm sitting 24 there working, and that video monitor goes out, I pick 25 up the phone. I call shift command and say "Sarg, my</p>

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1	video monitor just went out."	1 continuous and the 30-minute rounds on 5 and 6, was that
2	"Okay. Do 30-minute rounds or continuous rounds if	2 the practice in 2016?
3	you're on 5 or 6."	3 A. Yes.
4	I hang up the phone.	4 Q. Okay. Are you aware of any deviations from the
5	Fifteen minutes later, the camera video monitoring	5 requirement to do the 30-minute rounds or continuous
6	system comes back on, for whatever reason. I call shift	6 rounds on Old 6 in 2016?
7	command and I say, "Hey, Sarg, my camera system is back	7 A. No.
8	up. It looks like it's working."	8 MS. PRESCOTT: Just give me a minute to look at my
9	"Okay. You can go back to doing hour rounds."	9 notes, please.
10	Q. Okay. And so did that happen on 6 Old in August of 2016	10 And, Paul, do you know if that e-mail has gone out?
11	at any point?	11 MR. O'NEILL: Yeah. Yeah, I just sent it to you.
12	A. I wouldn't know that without seeing reports or logs or	12 MS. PRESCOTT: Okay. Thanks.
13	testimony from somebody saying that.	13 MR. O'NEILL: It's two e-mails separate.
14	I mean, I wasn't there.	14 BY MS. PRESCOTT:
15	Q. Okay. So, what about occasions where there was people	15 Q. Commander, do you know on how many occasions the folks
16	who refused overtime or there weren't enough – would	16 who staff the sixth floor of Old Wayne in 2016 asked for
17	there be times where people didn't have enough officers	17 assistance with cameras that weren't operative?
18	to have rovers and the right number of people to be	18 I don't know if I asked that before.
19	doing continuous rounds, even if maybe the cameras were	19 A. I believe you did.
20	off?	20 And, no, I don't know that.
21	A. We're under a jail consent decree that requires minimum	21 Q. Could you testify as to how frequently the cameras were
22	staffing. And regardless of the staffing or the	22 inoperative on 6 Old in the month of August 2016?
23	overtime positions, we have positions that we can cut,	23 A. From what I'm told, it was a lot. I mean, I wasn't
24	but we have to maintain certain minimum security	24 there, so I don't know, but it was frequent that there
25	staffing positions and rounds is like the highest	25 were mechanical issues.
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1	priority.	1 Q. And when the cameras were operative, were there times
2	In fact, this is in 2016. But, I mean, even	2 where they would be on but they wouldn't rotate through
3	recently, I've been ordered in at home, off duty on days	3 as well? Like they wouldn't shift the view so that they
4	off, that I'm not eligible to be paid for, to report in	4 were showing all of the areas?
5	to the jail to work those security positions because we	5 A. I don't have specific knowledge of that. That could be
6	cannot staff them.	6 an issue, but I don't know that. That would be for
7	So, when it comes to rounds, the rounds are to be	7 Corporal Foreman or Lieutenant Bates.
8	maintained no matter what. There's minimum staffing for	8 Q. Okay. Fair enough.
9	the floors. Even if the utility or rover officer is	9 How about – do you know whether they – the
10	cut, those floor officers are responsible for	10 cameras were – when they were on and when they were
11	maintaining those minimum required rounds.	11 shifting the view, had good visibility?
12	And I'm not aware of any time, ever, that we've	12 In other words, the quality of the picture, could
13	been below staffing to where we can't maintain the	13 you comment on it in August of 2017 on 6 Old?
14	minimum required rounds up until the point I've even	14 A. I know that I was in charge of a unit that had to do
15	come in to work then.	15 some investigating at that time, and we would routinely
16	Q. Okay. That's helpful.	16 receive video, when it was working, of incidents that
17	A couple of moments ago, you said on 5 and 6,	17 occurred in the jail, and we were able to use it to
18	rounds are either 30 minutes or continuous? Is that in	18 prosecute cases, to investigate, you know, issues.
19	with the whole floors?	19 So, the video was quality enough that you could use
20	A. Yes. But the reason being is because of maximum	20 it.
21	security and discipline.	21 Q. You could see what was going on?
22	Q. Okay. And what about protective custody? Is that in	22 A. Yes.
23	5 or 6 as well?	23 Q. Okay. Was it better or worse at night when the light
24	A. They do have protective custody wards on 5 and 6.	24 might be different?
25	Q. And is this – what you're testifying about, the	25 A. Not really – I don't really remember or recall there

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1	being a difference between, you know, night or – light	1 one unit in 2009 to another investigative unit. So,
2	or day – light or dark because you would think with	2 then in 2017, I got sent to Jail Division I, which does
3	dark you wouldn't see as good, but then sometimes you	3 not have cameras, for a three-month period.
4	would have glare.	4 I went back out to another investigative unit.
5	So, I would say it was equal quality either way.	5 And then in 2018, October, I was made commander,
6	Q. Okay. We talked about the video equipment for a bit.	6 and I was placed at Jail I. I just came to Jail II here
7	And you said that you see the DVR equipment as sort of a	7 in June of this year. And as the commander there, like
8	different class of issues.	8 I said, there were times we are still having camera
9	What was going on with the DVR equipment in 2016?	9 issues.
10	A. There were mechanical issues with it, maintenance issues	10 Q. Okay. There are policies in place with regard to
11	where it would fail. It would come back. It would go	11 retaining video evidence; correct? Like there's a
12	down.	12 certain number of days that video is kept, according to
13	Q. Do you know of times that it was inoperative just	13 policy; is that right?
14	because people would unplug it?	14 A. I'm not aware of a sheriff's office policy about that.
15	A. No, I do not – I'm not aware of that.	15 What number are you referring to?
16	I know that there were times I would get cases to	16 Q. Number 7.
17	investigate and there would be no video available. So,	17 Oh, policy.
18	it wasn't working.	18 I was referring to – I was talking about the Dep
19	Q. Okay.	19 Notice.
20	A. So, I'm aware of times that it failed.	20 So, in the Dep Notice we said that speaking to the
21	Q. So, how long of a period was that kind of thing going	21 Defendant's policies and practices regarding retention,
22	on, or maybe it's still going on?	22 reuse, destruction or disposition of video.
23	A. Yeah, I mean, there's been camera issues – we still	23 Do you know of any policies that fit that category?
24	have them. We had a power outage a few days ago and	24 A. The policy for that category is, we're limited by the
25	they were down for a while. So, Corporal Foreman was	25 retention storage capacity.
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1	able to get them fixed.	1 In the original system, the video would only last
2	Q. How far back does this issue go? Through your whole	2 like five or six days and then it would rewrite over
3	career, or did it really like one day in 2010 everything	3 itself.
4	went haywire, or what was your memory?	4 Now, in some of the newer systems that they've
5	A. Yeah. I'm not sure. I actually was an officer at that	5 updated since then, it now has about a 30-day capacity.
6	jail, but when I worked there, there weren't cameras	6 But, as far as us, I mean, we never went in and
7	installed there yet. And so when I left, I went out to	7 deleted or destroyed anything. It was just – they
8	an investigative unit as a detective and so they were	8 would rewrite over itself.
9	installed at that time and I was so out of the jail	9 So, if an incident occurred, as soon as you find
10	system that I didn't know what was going.	10 out about the incident, you would look for video. You
11	So, as far as how far back it goes, I don't know.	11 would download it. You would save it to a disc. You
12	Corporal Foreman or Lieutenant Bates may be able to	12 would save it on – you know, wherever you could save
13	answer that.	13 it. You know, when you forward a copy over to the
14	Q. After you came back to Wayne County Jail, was – were	14 investigative unit to investigate it, they have a copy
15	the cameras a problem when you returned from the	15 of the video. And then that video is kept with that
16	investigative unit?	16 investigative unit file for – and it depends on the
17	A. Yeah.	17 case.
18	Like I said, there were times the camera system is	18 I mean, in terms of a CSC, then that video would be
19	inoperable. It's an issue. I mean, where it doesn't	19 kept forever.
20	work. It's got maintenance issues. It's got	20 Q. Sure.
21	compatibility issues. It's – we weren't supposed to be	21 A. So, when you talk about retention of evidence, you know,
22	in this jail, and they weren't supposed to be installed	22 I look at that as downloaded evidence that you've
23	in the building that was built in the 1920s.	23 actually recovered or evidence that's on a DVR that you
24	Q. So, when did you come back from that investigative unit?	24 may or may not know about that you need to get off
25	A. It's a little more complicated than that. I went from	25 before it's written over.

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1 Q. Would there be an obligation to record in handwriting		1 that you hear, see, observe, have knowledge of.
2 things – like, in other words, make a written record of		2 And so I think it's – it may be covered in a more
3 information obtained from a video?		3 broader sense where it's not specifically because you've
4 In other words, if somebody is at a duty station		4 obtained it, you know, via video.
5 and they see a prisoner violating a rule or something on		5 Q. Do you know whether in practice the officers on Old in
6 the video, do they then have to record all of those		6 August 2016 were making reports of that sort, of the
7 observations in writing, or is the video kept, if it's		7 things that they were observing, either from audio or
8 needed, for tickets or discipline? How did that work?		8 visual or even from their rounds?
9 A. There's a lot of ways that could go on.		9 A. Well, yeah.
10 I mean, if you're – if I am watching video, and I		10 I mean, I know, as the commanding officer of the
11 see somebody commit a crime, commit a rule violation, as		11 investigative unit at that time, that there were times
12 a police officer, I can certainly write down in my		12 where we received incident reports from officers that
13 report, in my log entry that, hey, I witnessed this via		13 worked on Old where they witnessed things and they
14 video. I observed this. I saw this go on, live or even		14 documented those things. And they had log entries in
15 in recording.		15 the JMS system and JMS reports for like disciplinary
16 As far as the investigator, like, okay, they		16 rule violations or just informational.
17 received the disc. Okay. Now, they watch the disc, and		17 So, I know that that was done during that time.
18 they say, "I've reviewed the disc, and I realized that		18 Q. Okay. Do you know if any of those – I think it was IMS
19 this occurred. I saw this at this time on this disc."		19 at the time and now it's JMS.
20 Q. Is there a written policy that speaks to either of those		20 Do you know if any of those logs still exist from
21 two circumstances, where someone witnesses something on		21 2016?
22 a video or later is the investigator and reviews the		22 A. I don't have specific knowledge of that system. That
23 video, that says here is where you shall write it down		23 would be Corporal Foreman.
24 or here is where you must record it?		24 Q. And would you able to speak to any officers specifically
25 A. I didn't review the report-writing policy, but I know		25 making any particular reports on Old 6 in August 2016?
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1 just off the top of my head that one of the things		1 A. No. Not unless somebody, you know, showed me something.
2 required of a police officer is, you write down what you		2 Q. Some of the officers testified, who were working on Old
3 observe, what you see, what you hear, what you witness,		3 6 on the evening of the assault of my client, that –
4 what somebody reports to you that they have seen, heard		4 well, actually, it was, I think, Sergeant Mills.
5 or witnessed.		5 Are you familiar with Edith Mills?
6 Q. Okay. So, I'm on Number 8 of the list, and it says:		6 A. Yes.
7 "Speaking to the Defendant's policies and		7 Q. So, she was one of the first people to know about the
8 practices in place in August of 2016, applicable		8 assault, and she went with a partner to the DVR room to
9 to the sixth floor, including Ward 10, with		9 go look for footage of what happened to my client.
10 regard to the use of logs, records or other		10 She testified that when they arrived, and her
11 documents of any kind to record information		11 partner testified, that the DVR system was – was
12 obtained from electronic, video, photographic		12 unplugged.
13 and audio recordings, armband checks or doors."		13 Do you know whether that's the case or not?
14 So, is there any policy number that you think		14 A. No, I don't.
15 applies to or is included in what I just read out, which		15 Q. Do you have any facts suggesting that there's something
16 is paragraph 8 of the Deposition Notice?		16 false about that testimony or anything that you know of
17 A. I'm trying to think.		17 that casts doubt on that testimony?
18 I don't think there's necessarily a specific		18 A. No. I'm not aware of anything either way.
19 written policy that covers that exact situation. I		19 Q. Okay. She and her partner further testified that, when
20 think it's more of a general thing of, like I said a		20 they went back, it looked like it had been eight days
21 minute ago, as a police officer, you're supposed to		21 that the machine had been unplugged because they went
22 document what occurs. And if you get that knowledge		22 back to when the date was on the last images that were
23 from a video or from live monitoring of a video screen		23 saved on the DVR.
24 or from an audio recording, then you document that.		24 Do you know whether that's true or not?
25 And you're required to document, you know, things		25 A. Going just off of the facts that you just stated to me,

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1	I don't know how they could know if that's true or not 2 because – just because it's unplugged now but yet they 3 didn't find video for eight days, how do they know 4 somebody didn't know the video wasn't working and went 5 back and tried to work on it or something and 6 inadvertently or accidentally or – maybe they even 7 interpreted the wrong wire. I think that's an assumption that we don't know for sure is correct; that it had been unplugged for eight days.	1 secure it based on your prior testimony; correct? 2 A. Yes. 3 Q. And do you know whether any video was ever able to be 4 found of the incident on October – excuse me – August 5 24th, 2016, and the sexual assault of my client? 6 A. No. I'm not aware of any video ever being found with 7 regards to this particular attack. I know that there were videos found of other incidents and other attacks that occurred because we used those to successfully, you know, prosecute those issues.
8	Q. Okay. So, it's possible that it was taken out of use, 9 for example, to work on it?	8 Q. My client – 9 A. And it works. It's a great tool. 10 Q. Yeah. 11 And my client – I mean, the assailant in this 12 situation tried to turn the rape around and accuse my 13 client of rape. 14 So, another thing that they can be used for is 15 disproving allegations, right, against officers, against 16 other prisoners?
15	A. I wouldn't know that. That would be a Corporal Foreman 16 issue. I don't operate the DVRs. I don't have access to 17 them. I don't have the – you know, the passwords and 18 things. That's not something that I do.	17 A. It could be part of that, just like, you know, DNA 18 evidence and testimony and, you know, other evidence. 19 Q. And so it sounds like you found the videos to be a 20 useful tool for prosecution and also security and 21 safety?
20	Q. Okay. Relative to – I mean, it certainly would have 21 been required policy that – I mean, that the DVR be 22 used while – to the extent it could be; right? I mean, 23 there is – that's the expectation?	22
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1	A. Well, yeah. I mean, if you have equipment that's operable, of 2 course you want to use it. I want to make sure you understand, too. You're 3 not – you know, you're not talking about like a DVR at 4 your home. You're talking about banks and banks and, 5 you know, rows of DVRs all plugged in together in a 6 giant network. Q. Uh-huh.	1 A. I find all evidence to be a useful tool for all cases. 2 I mean, it would be great if we had a camera 3 covering every inch of the planet at all times, but it 4 would also kind of be scary, too. I mean, it's all a 5 trade-off. I mean, the inmates aren't necessarily happy 6 about the cameras when, you know, they want to take a 7 shower, use the toilet or things like that. So, you've constantly got this trade-off of 8 where – you know, just like out in the street, we're 9 worried about protecting individuals and their civil 10 rights, but then we're also worried about providing 11 security.
2	A. You know, we're not talking about just one – one item 3 here. There's a lot there. Q. It's a fair point. Do you have any idea – and I'm on Number 9 of the 4 Deposition Notice. It asks about preservation and disposition of the 5 evidence of videos of my client in August of 2016. Do you know why it would be that the staff –	12 Q. Why do – given that – the privacy interests at stake 13 for people going to the bathroom or picking their nose 14 or whatever they're doing in their cell, why are there 15 cameras? Why does the jail come down – it sounds like 16 it's expensive. They're a headache. They're half on 17 and they're half off. Why use them?
3	Sergeant Mills would be saying, "We couldn't find any 4 operative pictures going back eight days before the 5 assault, and in between Lieutenant Bates would be 6 auditing and seeing that the equipment was plugged in"?	18 A. Well, if they save one person – if they prevent one 19 attack, if they prevent one suicide, if they prevent one 20 officer from being hurt, then aren't they worth it? I 21 mean, we –
4	Do you have any facts about any of that?	22 Q. Or one person from being raped?
5	A. No.	23 A. We care about the individuals, the inmates and the
6	Q. It would be policy of the department, if a sexual 7 assault was reported, to go immediately to the DVR to	24

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1	staff, that work in our facility.	1 justice.
2	We do everything that we possibly can to keep them	2 So, it gets done. The reports get written. They
3	safe.	3 get generated. They get sent over to the investigative
4	That's why we've got medical care. That's why we	4 unit, which was my unit that I was in charge of. We
5	send people out to the hospital. We send people to	5 vigorously pursued and investigated this crime up and to
6	mental health services.	6 even giving polygraph examinations to both parties. And
7	You know, we physically intervene when we need to	7 we were able to get a successful prosecution on this
8	to save other people. I, as an officer, have been	8 issue.
9	injured, helping to prevent inmates from hurting each	9 Q. I don't disagree. I know that there were some steps
10	other.	10 taken after my client was raped, successful prosecution
11	I have personally stopped sexual assaults, when I	11 of another inmate.
12	was an officer, in that same jail.	12 A. I wish I could prevent every attack before it occurred.
13	We do everything that we possibly can to keep	13 They -
14	people safe. And, you know, if the cameras can be part	14 Q. My question was just on that.
15	of that, and if they save one person, then they were	15 Yeah. My question was what you know about any
16	worth all the aggravation and trouble that they may	16 action taken before the rape occurred.
17	cause when they don't work.	17 You said everything that was done that could be
18	Q. Do you think everything possible was done to keep the	18 done was done.
19	cameras in 6 Cell - or - excuse me - 6 Old working in	19 So, I was wondering what you were referring to, to
20	August 2016 to save my client from being raped?	20 stop the rape from happening in the first place.
21	A. Under the conditions that we're under with a building	21 MR. O'NEILL: I just want to place an objection.
22	that was built in the twenties, with the budget	22 That's outside the scope of subjects of the Deposition
23	constraints, with the fact that we weren't supposed to	23 Notice.
24	be there - we were supposed to be into a new building	24 But the witness can answer if he knows.
25	by that time. I believe that the Wayne County Sheriff's	25 A. I can't prevent something that I don't know was going to
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1	Office and its staff members did everything that they	1 occur. If I could, I would prevent every crime that's
2	could to prevent not only that, but any and all	2 about to happen, and I would also buy a lottery ticket
3	altercations, rapes, suicides, homicides, anything that	3 for tonight. And, unfortunately, I can't do either. I
4	could possibly occur, because we care about protecting	4 mean, I can buy a lottery ticket. I just won't win.
5	life and safety.	5 BY MS. PRESCOTT:
6	Q. Okay. So, it sounds like your point is, given the	6 Q. Are there any steps you can identify?
7	constraints and that there's budgetary constraints that	7 A. No. I'm sorry. There are - you can't stop
8	are practical limits on what can be done? Was that part	8 something you don't know. And as long as you follow the
9	of your answer?	9 policy and procedures and have your due diligence, what
10	A. Yes.	10 more can we ask?
11	Q. And then you said, "They did everything they could."	11 Q. Well, you did it, didn't you? You testified that you
12	Do you know of any steps any officers took to	12 stopped a sexual assault from happening.
13	protect my client from being raped on August 24th, 2016?	13 A. Because I was alerted that it was happening by the man
14	A. Apparently, from reviewing the internal affairs record,	14 yelling. I heard it in my duty station. I was able to
15	once the - an officer was notified, which, from my	15 go down there with my partner, catch him in the act,
16	recollection was the following day, I believe, going to	16 call for help, get in and physically intervene because
17	law library, they immediately got him help. They got	17 he alerted me to the issue.
18	him medical treatment, which - you know, you have to	18 Q. Okay.
19	worry about communicable diseases. You have to worry	19 A. You know, and -
20	about, you know, sexually transmitted diseases, HIV,	20 Q. Any steps like that, for example -
21	just, you know, trauma, all kinds of things.	21 MR. O'NEILL: Wait. You're interrupting the
22	So, by that point, they do what police officers do.	22 witness.
23	If they can't stop and prevent the attack, what do we	23 BY MS. PRESCOTT:
24	do? We get the victim care. We try to preserve and	24 Q. Oh, okay. Let's hear -
25	secure evidence so that we can bring the guilty to	25 A. And, in particular, the incident that I'm recalling from

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1	my much younger days, not that far but much younger 2 days, was on a small side unit on one of the old sides 3 like that, but on the opposite end. 4 So, it would have been a 1 Ward instead of a 10 5 Ward. But it is an equal distance amount of space from 6 the duty station to the 1 Ward and the 10 Ward. 7 So, I'm in the duty station and I hear the man 8 screaming on the 1 Ward and I'm able to go down and 9 intervene. You know, you've got the same amount of 10 distance on the tenth floor. So, that – 11 Q. Okay. So, your point was that if someone is able to 12 scream, you are able to rush to their aid? 13 A. Yes. 14 Q. Okay. And that's an example of an officer using his 15 senses, his common sense and his sense of duty – 16 A. Yeah. 17 Q. – to take care of somebody. 18 Anything you know about the officers in this 19 scenario that we haven't covered with taking care? 20 A. No. 21 MS. PRESCOTT: That's all the questions I have 22 except for the policies, Paul. 23 So, could we – and I may not have any about the 24 policies. So, can we take about a ten-minute break? 25 MR. O'NEILL: Sure.	1 MR. O'NEILL: I was going to send them to you so 2 you could send all of them together with them 3 Bates-numbered. 4 MS. PRESCOTT: Yeah. I just have a couple of 5 questions. We don't even need the – I mean, the policy 6 will help but the bottom line is we have an eight-page 7 document. Issue date is 11-10-15, and it's Document 8 Number 14.12. 9 BY MS. PRESCOTT: 10 Q. Is that correct, sir? Commander? 11 A. Yes. 12 Q. Okay. Okay. I just have a quick question about this 13 one on page 4. 14 And right where the cursor is, but you may also 15 find it in the middle of the page, it says: 16 "At no time shall more than 60 minutes 17 elapse before rounds." 18 And then it's also in bold a little bit higher. 19 The other – keeping that in mind, the other thing 20 you did send me is 14.14, a six-page document, issue 21 date 10-2-06, and it talks about continuous rounds on 22 Floors 5 and 6. I have pulled it up, and we have it 23 under 1(b) where I've highlighted the cursor on the 24 screen, but you can also look at it, for day shift. 25 There's also a continuous rounds utility officer
	Page 51	Page 53
1	MS. PRESCOTT: And I'll look at them and I'll – 2 you know, the witness can take a break, and we'll come 3 back at about 12:22 – or 2:22. 4 MR. O'NEILL: Okay. 5 (Short recess at 2:12 p.m.) 6 * * * 7 (Record resumed at 2:19 p.m.) 8 BY MS. PRESCOTT: 9 Q. Commander, I've got up here a document which was just 10 sent to me by counsel, and it is Policy 14.12. 11 Is that the one you earlier were describing as 12 applicable to Division II? 13 A. Yes. 14 Q. All right. It isn't Bates-numbered, but we can – let's 15 see. It looks like it's eight pages long; is that 16 correct? 17 A. Yes. 18 Q. And the issue – 19 MR. O'NEILL: Sarah, if it relates to the Bates 20 number, would you give me a day where I can Bates number 21 these two documents and e-mail them to you if you're 22 going to make them a part of the record so that we have 23 Bates-numbered as exhibits to the deposition? 24 MS. PRESCOTT: You mean you're going to send them 25 to John later?	1 that's mentioned on the second page. It talks about 2 continuous rounds on 4, 5 and 6. 3 So, I just want – my only real question for you 4 is, given that I have these two policies and one says 5 60 minutes, one is a little bit more specific to Floors 6 5 and 6 and talks about continuous rounds, am I correct 7 that the continuous rounds, indeed, are policy for 8 Floors 5 and 6, and the 60-minute rounding is what is 9 applicable elsewhere in the building? 10 A. Actually, the rounds policy is – if the video equipment 11 is working, the monitoring equipment is working, it's 12 60 minutes. 13 If the video monitoring equipment is not working, 14 it's 30 minutes, no more than 30 minutes, no more than 15 60 minutes. 16 If the video equipment is not working on the fifth 17 and sixth floor, they have the continuous rounds due to 18 disciplinary isolation and maximum security. 19 Q. Okay. Is that – and that also applies to the 20 protective custody area? 21 A. They walk the whole floor when they're on continuous 22 rounds, so they also pass those areas, yes. 23 Q. Okay. So, what is what I've got highlighted on the 24 screen when it speaks to a continuous rounds/utility 25 officer? What is that referring to, given that you said

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		Page 54	Page 56
1	that there might be times when the cameras are working?	1	implemented or how that was – when I was out in the street units.
2	Does this not apply if the cameras are working?	2	
3	A. If you go back to the previous page and look at B, you'll see that these are definitions.	3	Q. Okay. Has the 30-minute rounding in 20- – or – excuse me – on Floors 5 and 6, that's with or without the cameras being operable, though?
4		4	
5	Q. Okay.	5	A. We're doing 30-minute rounds in the entire building now.
6	A. That is a definition of what the fifth and sixth floor continuous rounds/utility officer is.	6	Q. And how long has that been going on?
7		7	A. I don't know for certain. I know the entire time I've
8	Q. Okay. So, then, let's go to "Procedures, C(1), Day Shift and Afternoon Shift."	8	been the commander there – I want to say at least since
9		9	2018, but it may be longer than that – is when the
10	And then it says:	10	decision was made that the video system was so up and
11	"Floors 5 and 6 shall have one	11	down frequently that you didn't know when it was up or
12	rounds/utility officer shared for continuous	12	down due to the DVR recording or due to sometimes the
13	rounds on those floors only."	13	cameras not working or not cycling that they just –
14	A. Yes.	14	they went to 30-minute rounds, and that's where we've
15	Q. So, is that what you meant earlier when you said that	15	been.
16	there would be continuous rounds done on the sixth floor	16	Q. Okay. So, can you speak at all to – I just want to –
17	in 2016?	17	I don't want to belabor it, but I want to go back.
18	A. Yeah. It's – it's if the video equipment is down, and	18	So, we talked about the actual routines and
19	then it's to cover like lunch periods.	19	practices of those who staff the sixth floor in the 2015
20	Q. I'm not sure I understood your answer.	20	through 2016 era.
21	Are you saying there weren't continuous rounds on	21	So, those two years, '15 and '16. And when the
22	4, 5 and 6, or there were?	22	functionality of the video equipment was problematic,
23	A. If the video monitoring equipment is working – let me	23	was down, what policy were they following? What were
24	see.	24	they doing?
25	THE REPORTER: I'm sorry?	25	
		Page 55	Page 57
1	A. I'm sorry. I'm reading the policy.	1	Were they doing 30-minute rounds, continuous
2	See, this policy here is from 2006.	2	rounds, hour rounds?
3	This other one is from 2015.	3	A. I don't have the round verification printout in front of
4	So, in 2006, according to this policy, if you look	4	me, but I believe it was 30-minute rounds.
5	at it, there would have been continuous rounds in the	5	Q. Okay. Even though – and do you think that that was
6	fifth and sixth floor.	6	consistent with the expectation, the policy, the
7	BY MS. PRESCOTT:	7	approval of the sheriff and through his chain of
8	Q. Okay. But there's no later revision of 14.14 that you	8	command?
9	know of, is there?	9	A. Yeah.
10	A. No.	10	Because if you look at 14.12 on page 5, Number 8,
11	Q. So, as far as you know, the 10-2-06 document is the	11	at the very bottom of Number 8 there, it says:
12	policy as of 20- – well, as of any time; right?	12	"The housing units where the malfunctioning
13	There's no later policy.	13	occurred shall revert to half-hour rounds until
14	A. Well, yeah. You've got the rounds policy now.	14	the video monitoring equipment has been repaired
15	Like today. We're doing 30-minute rounds. We're	15	and is in full operation."
16	not doing continuous rounds on 5 and 6.	16	Q. Fair.
17	So, you've got the newer – the round – the 14.12.	17	But your point was they were doing half-hour
18	So, like even today, we're doing 30-minute rounds	18	rounds.
19	now. We're not doing continuous.	19	You think they were doing half-hour rounds with or
20	Q. Okay. Do you know of any – who decided that 14.14, as	20	without the video monitoring in 2015 and '16?
21	it's written here, which talks about the continuous	21	A. No. That's not what I said. I said since 2018.
22	rounding on 4, 5 and 6 – I've just highlighted it –	22	Q. Okay. I keep getting back to my Number 2, which is the
23	wouldn't be what was done? Instead, it would be	23	Number 2 paragraph of the Dep Notice, and that's why
24	30-minute rounds?	24	we're crossing – talking.
25	A. I don't know how that decision – when that was	25	It's speaking about the years 2015 and 2016.

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	Page 58	Page 60
1	And –	1 A. I would say this policy, 14.12, is approved by Chief
2	A. And this round verification policy was written in	2 Dunlap in March of 2016. He signs it and he says that
3	November of '15 and signed by the chief in March of '16.	3 is the rounds policy.
4	Q. Okay. So, let's talk about March of 2016 through	4 This is the Security Division II, Floor Security
5	October of 2016.	5 Rounds Policy.
6	What was going on on the sixth floor if the video	6 Q. Okay. And .14 is the Security Video Monitoring Policy.
7	equipment was working?	7 So, did anyone ever –
8	A. Hour rounds.	8 A. From 2006.
9	Q. I thought you said half-hour rounds?	9 Q. – say, "We don't follow 14.14 any more," that you know
10	A. In 2016 or 2018?	10 of?
11	Q. 2016.	11 A. I don't know what he said. I wasn't assigned to the
12	A. Okay. I told you, at some point, it was determined that	12 jails. I wasn't – when he would give those directions.
13	the video system they could not know fast enough if it	13 When he put this policy out, I was in a street unit. I
14	was up or down with the recording, with the monitoring	14 wasn't – like I didn't even receive it.
15	and cycling of the cameras. Some cameras work and some	15 Q. Okay. And speaking for the County in this 30(b)(6)
16	not.	16 weird deposition situation and scenario you find
17	So, they decided to go ahead and go to 30-minute	17 yourself in, are you aware of anyone ever retracting
18	rounds for the entire building everywhere. And I don't	18 14.14?
19	know the exact date that that was decided because I	19 A. Other than by putting out 14.12, no.
20	wasn't there.	20 Q. Well, there's a way to retract a policy, isn't there,
21	Q. Okay.	21 that says, "14.14 will no longer apply"?
22	A. So, if that occurred after the rape, the sexual assault,	22 A. You could do that. I mean, that is a – something you
23	that decision to go to 30-minute rounds, then, in 2018	23 could do.
24	or 2016 or whatever, if the video monitoring equipment	24 Q. Okay. Did anyone ever retract 14.12 and say, "We're
25	is down, they do 30-minute rounds.	25 actually doing 30-minute rounds now"?
	Page 59	Page 61
1	If they're sitting in their duty station and the	1 A. It says it right here on page 8, where it says:
2	video monitor is working – they can see it cycling	2 "The housing units where the malfunction
3	through – then they would have been required to do hour	3 occurred shall revert to half-hour rounds
4	rounds.	4 until the video monitoring equipment has been
5	Q. So, what I'm asking is, that – just to – the record is	5 repaired and is in full operation."
6	getting very complicated.	6 The video monitoring equipment is malfunctioning.
7	Is it the case that you don't know what the	7 Q. Okay. But it's been malfunctioning for many, many
8	practice was between March, when the policy was signed,	8 years; right?
9	and October 1st, 2016?	9 A. Yes.
10	The practice. I mean, we've got three pieces of	10 Q. It's just that some day someone decided, look, this
11	paper here, but what they were actually doing on 6. Do	11 whole system is so unreliable, let's just do the
12	you know?	12 30-minute rounds?
13	A. The policy for 2016 says if the video equipment is	13 A. Yes.
14	malfunctioning, it's 30-minute rounds.	14 Q. And they relied on this from 11-10-15?
15	Q. Okay.	15 A. That's the policy now.
16	A. So, if the video equipment is not malfunctioning, it's	16 Q. Right.
17	hour rounds.	17 And so what stopped them on 11-11-15 saying, "You
18	Q. And you're saying that because of –	18 guys. It says here at the bottom of paragraph 8, if
19	A. The 2015 policy.	19 there's malfunction going on, we should be doing
20	Q. The 11 – the 14.12?	20 half-an-hour rounds. And there's just nothing but
21	A. Yes.	21 malfunctions. Some days they're up. Some days they're
22	I'm sorry. I –	22 down. These cameras just aren't reliable"?
23	Q. Who decided that they were going to follow 14.12 instead	23 Did anything stop anyone from using paragraph 8 as
24	of 14.14, where it says, "Floors 5 and 6 will have	24 of 11-11-15 to start doing half-an-hour rounds?
25	continuous rounds"?	25 A. We are doing half-an-hour rounds.

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1	<p>Q. Well, I know, but you weren't – according to you, you weren't in '15 and '16.</p> <p>3 MR. O'NEILL: Excuse me. Objection.</p> <p>4 Mischaracterizes his testimony. He said they were doing 5 30-minute rounds in '15 and '16 if the cameras weren't 6 working.</p> <p>7 BY MS. PRESCOTT:</p> <p>8 Q. So, did you understand my question, Commander?</p> <p>9 A. I stated earlier, if the video equipment doesn't work, 10 they do 30-minute rounds. I also stated that, at a 11 certain point, it was decided above me that they were 12 going to just do 30-minute rounds at Jail Division II, 13 and I was not sure what that date was.</p> <p>14 But I, at least – believe it was at least 2018.</p> <p>15 Q. Do –</p> <p>16 A. Now, do you have a round verification printout from 17 6 Old for that day?</p> <p>18 Q. Do you have anybody that you – that you know made that 19 decision that affected 2018?</p> <p>20 Do you know the name of a person who would have 21 made the 2018 shift in policy?</p> <p>22 A. It came above me. It could have been a deputy chief. 23 It could have been the chief, the sheriff, the 24 undersheriff.</p> <p>25 It would have been above me.</p>	<p>1 MR. O'NEILL: All right. I just have one follow-up 2 question.</p> <p>3 * * *</p> <p>4 EXAMINATION</p> <p>5 BY MR. O'NEILL:</p> <p>6 Q. Commander, you were asked about policies and practices 7 of the security staff on the day of the attack by 8 Mr. Solomon of Mr. Burks, what, if anything, the floor 9 officers did that could have prevented that.</p> <p>10 Is rounding – does rounding act as a deterrent to 11 sexual assaults such as Mr. Burks suffered?</p> <p>12 A. Yes.</p> <p>13 It's just like on the street. When you've got, you 14 know, officer presence, that deters people from – you 15 know, you've got an officer there in uniform that is 16 deterring people from committing assaultive acts. You 17 know, you've got an officer that's there with their 18 senses, looking. Hey, does this guy look nervous? Does 19 this guy look afraid? Does this man or woman look 20 scared? Are they crying? Do they look depressed? Are 21 they going to harm themselves? Are they going to harm 22 somebody else? Do they need to see the nurse?</p> <p>23 You're looking for all these signs and symptoms 24 that, hey, is it just too quiet on this ward? Is it too 25 loud on this ward? You know, you're using all of these</p>
1	<p>Q. Okay. And you don't know – but you would point to the 2 second – the third sentence of paragraph 8 as the basis 3 for what's going on now?</p> <p>4 A. If you're asking me my opinion, yes.</p> <p>5 Q. Well, I'm asking you as the person that's designated to 6 sit here, unfortunately for you. I hope it's not too 7 unfortunate, but you're the person that the County 8 designated.</p> <p>9 A. Okay.</p> <p>10 Q. And so I'm trying to figure out, speaking for the 11 County, you're pointing to the third paragraph of 8 as 12 the reason that we can be doing half-hour rounds right 13 now, right?</p> <p>14 A. Yes.</p> <p>15 Q. And as the County – speaking for the County, do you – 16 is there any reason that half-an-hour rounds weren't 17 going on after 11-10-15 based on the very same reasoning 18 in paragraph 8?</p> <p>19 A. The only reason could be that the video monitoring 20 equipment was working correctly.</p> <p>21 Q. Do you know?</p> <p>22 A. No. I don't have personal knowledge of that.</p> <p>23 Q. And – okay.</p> <p>24 MS. PRESCOTT: That's all the questions that I 25 have. I appreciate your time.</p>	<p>1 things to try and make sure that nothing is going to go 2 on. And even the cameras, themselves, whether they work 3 or don't work, the cameras simply being there are a 4 deterrent to the inmates' destructive behavior.</p> <p>5 Q. And how about the officer sitting at the duty station, 6 listening to the activity on the wards? Is that a 7 function of preventing sexual assault?</p> <p>8 A. It certainly is.</p> <p>9 I mean, the officer in the duty station, actually 10 he can control a lot of what goes on in those wards 11 because he's got an intercom system where he can not 12 only speak to the inmates but – again, you know, it's a 13 little bit of a distance but you can yell down. The 14 sound echoes. It's concrete. It's steel.</p> <p>15 And, you know, often a ward will get a little too 16 loud. You'll flash the lights. "Hey, guys, quieten 17 down."</p> <p>18 You'll hear – maybe they're roughhousing.</p> <p>19 "Hey, guys, stop it. I don't want to have to come 20 down there and lock you down. I'm going to turn the TV 21 off. You've got to behave."</p> <p>22 So, just them knowing, yeah, the deputies are here, 23 they are paying attention is a deterrent.</p> <p>24 MR. O'NEILL: Thank you. Nothing further.</p> <p>25 * * *</p>

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1 RE-EXAMINATION

2 BY MS. PRESCOTT:

3 Q. Do you know if anyone flashed any lights or used any
4 intercom or used their five senses on August 24th, 2016,
5 in any of the ways you just described, sir?

6 A. I don't have any personal knowledge of that.

7 MS. PRESCOTT: I appreciate it. That's all I need.

8 Thank you.

9 MR. O'NEILL: Thank you. We're done.

10 I'll get Mr. Foreman.

11 MS. PRESCOTT: Okay. Thank you.

12 (Deposition concluded at 2:40 p.m.)

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1 STATE OF MICHIGAN)

2 COUNTY OF OAKLAND)

3 CERTIFICATE OF NOTARY PUBLIC

4 I do hereby certify that the witness, whose
5 attached testimony was taken in the above matter, was
6 first duly sworn to tell the truth; the testimony
7 contained herein was reduced to writing via remote
8 attendance of the witness by means of stenography;
9 afterwards transcribed; and is a true and complete
10 transcript of the testimony given.

11 I further certify that I am not connected by blood
12 or marriage with any of the parties; their attorneys or
13 agents; and that I am not interested, directly or
14 indirectly, in the matter of controversy.

15 In witness whereof, I have hereunto set my hand
16 this day at Highland, Michigan, County of Oakland, State
17 of Michigan on Tuesday, January 19, 2021.

18

19

20

21 _____
21 John J. Slatin, RPR, CSR-5180

22 Certified Shorthand Reporter

23 Notary Public, Oakland County, Michigan

24 My commission expires: July 25, 2023

25